

Sixty-eight year-old widow Helen Wilson was beaten, raped and suffocated to death in her Beatrice, Nebraska apartment late on the evening of February 5 or the early morning of February 6, 1985.

A number of people were investigated as suspects. One was Beatrice native Bruce Allen Smith. A month after Wilson's slaying Smith was eliminated as a suspect when his blood type was determined to be different than the assailant's blood recovered from the scene. Oklahoma City crime lab technician Joyce Gilchrist performed the blood test.

The Gage County Sheriff's Office took over the investigation after the Beatrice Police Department was unable to solve the crime.

The case remained unsolved with no solid leads until 1987 when former Beatrice police officer Bert Searcey reported that a confidential informant told him that a former Beatrice resident, Ada JoAnn Taylor, said that she had been involved in Wilson's murder. Gage County hired Searcey and he was put in charge of the Wilson investigation.

Taylor was located and questioned. During a series of interrogations Taylor gave a variety of conflicting accounts about the night of Wilson's murder. Her descriptions involved different people and details. At one point she told an interrogator about Wilson's murder, "I don't remember it, but police officers said they could prove I was up there at the time."<sup>1</sup>

Eventually Taylor, and two other women and three men came under suspicion. They were believed to have drank alcohol and taken drugs with each other in Beatrice around the time of Wilson's murder, when they ranged from 19 to 27 years-old.

The six were arrested beginning in March 1989.

In an effort to obtain confessions the Gage County Attorney and sheriff deputies threatened the six that if they didn't cooperate they would be given the death penalty if convicted of first-degree murder after a trial. At first they all denied being in Wilson's apartment or having anything to do with her death. More than four years had passed since Wilson's murder, so the five people implicated by Taylor were as fuzzy as she was about details of where they were and what they did on the night of Wilson's death. Years of alcohol and drug use by some of them didn't help the clarity of their memory.

Four of the six eventually confessed and agreed to be prosecution witnesses in exchange for reduced charges, one man

## Six People Cleared Of 1985 Nebraska Murder That Four Confessed To Committing

By Hans Sherrer

claimed he had no memory of anything that happened on the night of February 5-6, 1985, and one man insisted on his innocence. That man, Joseph E. White, went on trial for first-degree felony murder in late 1989.

There was no physical evidence or witnesses placing any of the six people in Wilson's small downtown apartment at the time of the murder, they were all excluded as the source of fingerprints found in her apartment, and White's blood type was different than that found at the crime scene.

The case against White began and ended with his co-defendants who testified that during a night of drinking and drug use they broke into Wilson's apartment to steal money, and that first White, and then Winslow raped Wilson while Taylor held a pillow over her face to stifle her screams. In an effort to discredit their testimony, White's attorney was able to bring out on cross-examination that the testimony of two witnesses was influenced by their dreams, another said she communicated with her boyfriend in Missouri by telepathy and she had five past lives, and still another witness in one day told the police three different versions of what happened the night of Wilson's murder. Winslow testified he had no memory of anything that happened that night. White testified in his defense that he was not at Wilson's apartment and he had nothing to do with her rape and murder.

After deliberating for 2-1/2 hours the jury convicted White of first-degree felony murder. To avoid the same fate, Winslow agreed to plead no contest to aiding and abetting second-degree murder, although he still maintained that he had no memory of that night.

In January 1990 Winslow was sentenced to 10 to 50 years in prison; Taylor was sentenced to 10 to 40 years in prison for pleading guilty to second-degree murder; and James Dean, Debra Shelden and Kathy A. Gonzalez were sentenced to 10 years in prison each after pleading guilty to aiding and abetting second-degree murder. Several weeks later White was sentenced on February 16, 1990 to life in prison.

Dean and Shelden were released in August 1994, almost five-and-a-half years after being arrested and jailed, and Gonzalez was released two months later.

Winslow and Taylor languished in prison year after year as White first lost his direct appeal, and was then denied his state and federal habeas petitions. With his appeals exhausted, in May 2005 White retained attorney Doug Stratton to look into his case. Stratton discovered that the Beatrice Police Department had preserved biological evidence from the case that could be DNA tested, namely the assailant's semen and crime scene blood and hairs. Winslow learned about the discovery that testable evidence still existed, and he contacted the Nebraska Commission on Public Advocacy. Attorney Jerry Soucie agreed to represent Winslow *pro bono* in an effort have the evidence DNA tested. Convinced that White's claim of innocence could be true, Stratton agreed to continue representing White on a *pro bono* basis when his retainer was exhausted.

In 2001 Nebraska's DNA Testing Act was enacted to provide a means for post-conviction DNA testing. In March 2006 both White and Winslow filed a motion for testing the evidence, arguing that at the time of the crime DNA testing was unavailable, and the evidence had never been tested. Gage County District Attorney Richard Smith, who had prosecuted the six defendants in 1989 and 1990, opposed the motions. Among his arguments were that White and Winslow were not convicted of sexual assault, so even negative DNA test results would have no bearing on their respective convictions.

In August 2006 Judge Vicky Johnson denied the DNA motions. She ruled that White was convicted of a murder that occurred during the commission of another felony, so whether he raped Wilson was irrelevant to his conviction. Johnson ruled that because Winslow entered a plea he could not request post-conviction testing under the DNA Testing Act.

Both White and Winslow separately appealed to Nebraska's Court of Appeal, which ruled against them. They then appealed to the Nebraska Supreme Court, which in November 2007 reversed Judge Johnson's rulings. The Court stated the purpose of the DNA Testing Act was to consider evidence "which is favorable to the person in custody and material to the issue of the guilt of the person in custody." (*State v. White*, 274 Neb. 419 (2007)) In Winslow's companion decision, the Court ruled "that the DNA Testing Act does not exclude persons who were convicted and sentenced pursuant to pleas." (*State v. Winslow*, 274 Neb. 427 (2007)) Since it was possible that DNA testing of biological evidence could shed light on whether White and Winslow were actually guilty or had been properly sen-

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tenced for their convicted crimes, they were entitled to having the testing performed.

In the summer of 2008 testing of semen and some blood evidence was conducted at the University of Nebraska's Human DNA Identification Laboratory. The tests excluded both men. A second series of DNA tests was then conducted involving 43 additional biological samples. The test results released in early August 2008 excluded all six defendants, and identified an unknown male as Wilson's assailant.

A joint state-local reinvestigation of Wilson's murder was launched at the direction of Nebraska Attorney General Jon Bruning.

White filed a motion for a new trial based on the new exculpatory DNA evidence. During the hearing held on October 15, 2008, Assistant AG Corey O'Brien responded when asked by the judge about the importance of the DNA evidence, "Would it have affected my decision as a juror? I would be lying to this court if I said it wouldn't have."<sup>2</sup> Unopposed by the State, White's motion was granted and he was released on a personal recognizance bond later that day. White was the first person exonerated by DNA testing in Nebraska. It had been almost twenty years since his arrest at his family's home in Cullman, Alabama and his extradition to Nebraska. Speaking to reporters White simply said, "It's been a long, hard road and I'm glad it's over. I'm going to go home and start trying to rebuild my life."<sup>3</sup> Toney Redman was White's lawyer during his 1989 trial. The day of White's release he admitted to being "absolutely astounded" that it had finally been proven that White was telling the truth during his trial while his co-defendant's lied.

Faced with the new DNA evidence, Randall Ritnour, who had been elected Gage County District Attorney in 2006, agreed to Winslow's resentencing to time served. Winslow was released hours after being resentenced on October 17, 2008.

On November 7, 2008 AG Bruning announced that the assailant's DNA was matched to Bruce Allen Smith ... the person eliminated as a suspect by Gilchrist's blood testing a month after the crime. Bruning also announced that the crime's reinvestigation determined that Smith committed the crime by himself. However, Smith could not be prosecuted since he died of AIDS in 1992. The six defendants had been extensively interviewed during the reinvestigation. The false confessions by four of them was attributed by the AG's office to prosecutors and police officers eager to solve

Wilson's four year-old murder case by using interrogation methods that have since been discredited and are no longer used in Nebraska.

Publicly acknowledging that the six co-defendants were innocent, Bruning arranged for an expedited parole hearing so that Taylor could be promptly released. Three days later, on November 10, Taylor was released on parole. The AG's office announced it would press for the pardoning of the five defendants who took plea agreements.

Contacted at his parent's home in Alabama, White reacted to the AG's announcement by exclaiming, "My bullheadedness has cleared us all!" White's indictment will be dismissed in April 2009 – six months after his conviction was vacated.

The six defendants were incarcerated for a total of more than 75 years from the time of their arrests: Joseph White – 19-1/2 years; Thomas Winslow – 19-1/2 years; Ada JoAnn Taylor – 19-2/3 years (false confession); James Dean – 5-1/2 years (false confession); Kathy Gonzalez – 5-1/2 years (false confession); Debra Shelden – 5-1/2 years (false confession). The six exonerations is the largest number based on post-conviction testing of DNA evidence in one case. Another twist to the case is that even though it is now known Shelden is innocent, she has apparently convinced herself that she was present during Wilson's murder so she has not recanted her confession.

When Stratton was interviewed about the dramatic events he set in motion by taking White's case, he observed, "It's important to keep in mind that the pursuit of justice isn't just won by a conviction – it's by the conviction of the right person for that crime. Unfortunately, that gets lost sometimes. It obviously did in this case."<sup>4</sup>

### Joyce Gilchrist's early connection to the Wilson case was undetected

Questions had been raised for years about the quality of Gilchrist's work with Oklahoma City's crime lab and the reliability of her testimony, when her competence came under intense scrutiny in May 2001. That is when it was discovered by DNA testing that her faulty testimony about hair and semen analysis contributed to Jeffrey Pierce's wrongful 1986 conviction in Oklahoma for rape. Pierce was released after 15 years in prison.

In a case three years earlier Robert Lee Miller Jr. was exonerated by DNA testing after spending ten years on Oklahoma's death row. Miller was convicted in 1988 of a 1986 rape and murder based on Gilchrist's trial

testimony. After Miller's release a man was charged with the crime after he had been cleared by Gilchrist prior to Miller's arrest.

After Pierce's release the problems with cases Gilchrist had been involved with resulted in the FBI conducting an investigation into her lab work and courtroom testimony. The FBI determined she had "misidentified evidence or given improper courtroom testimony in at least five of eight cases the agency reviewed."<sup>5</sup> The FBI also found her laboratory notes "were often incomplete or inadequate to support the conclusions she testified to."<sup>6</sup> Gilchrist was fired in September 2001 as supervisor of Oklahoma City's crime lab due to "laboratory mismanagement, criticism from court challenges and flawed casework analysis."<sup>7</sup>

In 2001 Oklahoma's Governor responded to the FBI's findings by ordering an investigation into the over 3,000 felony cases Gilchrist was involved as a technician from 1980 to 1993. However, no one made the connection between Gilchrist and her faulty blood analysis a month after Wilson's murder that resulted in Smith's erroneous exclusion as a suspect. Further investigation of Smith in 1985 might have resulted in the discovery of more evidence linking him to the crime, and during questioning it is possible he would have provided details known only by Wilson's assailant. So the Beatrice Six can be added to the list of people wrongly convicted due to Gilchrist's questionable competence.

#### Sources and Endnotes:

1 Wrongful convictions pinned to old forensic science, by Paul Hammel, Leslie Reed and Martha Stoddard, *Omaha World-Herald*, November 13, 2008.

2 White released after 18 years, *Beatrice Daily Sun*, October 16, 2008.

3 *Id.*

4 Norfolk attorney part of historic DNA case, *Norfolk Daily News*, October 28, 2008.

5 Inquiry Focuses on Scientist Used by Prosecutor, *The New York Times*, May 2, 2001.

6 *Id.*

7 Police chemist fired for shoddy work and misleading testimony, *The Berkeley Daily Planet* (Berkeley, CA), September 26, 2001.



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